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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/770,464	02/04/2004	Yuji Hori	118554	1349
25944	7590	04/29/2009		EXAMINER
OLIFF & BERRIDGE, PLC P.O. BOX 320850 ALEXANDRIA, VA 22320-4850			PELHAM, JOSEPH MOORE	
			ART UNIT	PAPER NUMBER
			3742	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/770,464	Applicant(s) HORI ET AL.
	Examiner Joseph M. Pelham	Art Unit 3742

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 12 September 2008.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1,3-6 and 8-10 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1,3-6 and 8-10 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 05 March 2004 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date: _____
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)	5) <input type="checkbox"/> Notice of Informal Patent Application
Paper No(s)/Mail Date: _____	6) <input type="checkbox"/> Other: _____

The Examiner acknowledges the amendment filed 12/30/08. Claims 1 and 3-6, and 8-10 are pending.

Claim Rejections - 35 USC § 103

Claims 1, 3-6, and 8-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Pat. 4681423 in view of US Pat. Appl. 2003/0174355 and US Pat. 6529696.

Referring to Fig. 5, 1:54-60 ("column:lines"), and 3:8-49, US'423 discloses a copier with a "first control processing" mode that initiates warm-up when placement of an original is detected.

US'423 does not disclose a "second control processing" mode that does not initiate a warm-up mode, but instead by a "copy operation instruction," a control unit that performs either the first or second "control processing" based on the mode set when the an original is detected (see par. [0064] etc.); nor does US'423 disclose determining the operating mode based on the history of usage.

Referring to paragraphs [0064]-[0070], US'355 discloses a "second control processing" mode – facsimile - that deactivates a warm-up mode, and initiates a "copy operation instruction" – a "normal mode, and the desired mode is set by the user before a "control processing" is executed." It would have been obvious to adapt the second mode of US'355, which deactivates the warm-up mode, to conserve energy during an outgoing facsimile transmission, when image fusing is not required. Since the determination of which of the processing modes is executed, when an original is detected, is determined by the mode set by the user beforehand, clearly US'355 alone discloses a "fixing unit [that] performs either one of the first... or second control processing based on the set operation mode when the original detection detects the set original," as claimed.

US'696 discloses, at Fig. 7 and col. 5, line 66, through col. 6. line 32, determining the operating mode based on the history of usage. It would have been obvious to determine the operating mode based on the history of usage, after the manner of US'696, since this would render the step of manually choosing the mode unnecessary most of the time.

A manual override (claim 9) simply retains the option to choose a mode at regardless of the automatic setting, which feature is virtually universal in diverse electronic devices. Claim 10 merely states that the mode executed is the mode set, which necessarily obtains in the operation of US'423 in view of US'355.

While US'423 does not explicitly disclose both manual and automatic mode selection (claim 5), the latter by detecting transmission, i.e. registering fax operation (claim 3), this does not patentably distinguish the claimed invention from the prior art. It would have been obvious to automatically disable the preheating mode during fax operation since preheating is then manifestly unnecessary. Claim 6 is met by control means that, when the device is turned on, retains the previous mode setting, which is conventional, and avoids the need to always select a mode when starting the device.

Response to Arguments

Applicant's arguments with respect to the claims have been considered but are moot in view of the new grounds of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph M. Pelham whose telephone number is 571-272-4786. The examiner can normally be reached on M-F 8:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tu Hoang can be reached on 571-272-4780. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Joseph M. Pelham/
Primary Examiner, Art Unit 3742
4/27/09